

In re Patent Application of
BARDWELL
Serial No. 10/081,870
Filed: FEBRUARY 22, 2002

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REMARKS

Applicant thanks the Examiner for the careful and thorough examination of the present application, and for the courtesy extended during the telephone interview on June 20, 2006. By this amendment, Claims 1, 10, 15, 21 and 24 have been amended to further clarify the invention as will be discussed in detail below. Claims 1-4, 6-11, 13-17, 19-23, 25-30 and 32-35 remain pending in the application. Favorable reconsideration is respectfully requested.

I. The Claims are Patentable

Claims 1-4, 6-11, 13-17, 19-23, 25-30 and 32-35 were rejected in view of Gagne et al. (U.S. Patent No. 6,212,290) or in view of Abtahi et al. (U.S. Patent No. 5,509,083) taken individually, in combination or in further view of Lu et al. (U.S. Patent No. 5,432,864) or Sibbald et al. (U.S. Patent No. 5,412,463) for the reasons set forth on pages 2-15 of the Office Action. As mentioned above, Claims 1, 10, 15, 21 and 24 have been amended to further clarify the invention. Applicant contends that Claims 1-4, 6-11, 13-17, 19-23, 25-30 and 32-35 clearly define over the cited references, and in view of the following remarks, favorable reconsideration of the rejections under 35 U.S.C. §102 and §103 is requested.

Each of the independent claims includes the use of biometric data comprising selected non-contiguous sets of image pixels from an array of image pixels of an enrollment biometric image, and each non-contiguous set of image pixels includes a plurality of consecutive and colinear image pixels. In other words, a plurality of consecutive and colinear image pixels define a set, and a plurality of sets are selected that are non-contiguous with each other. This combination of

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features is not fairly taught or suggested in the cited references and patentably defines over the cited references.

The Examiner has relied on the Gagne et al. and Abtahi et al. patents as allegedly disclosing selected spaced apart sets of image pixels from an array of image pixels of an enrollment biometric image, and each set of image pixels comprising a series of consecutive and colinear image pixels.

As discussed during the telephone interview, with respect to the claimed "spaced-apart sets of image pixels", the Examiner was interpreting the phrase "spaced apart" as merely meaning "non-overlapping." So, it was agreed during the interview that replacing the phrase "spaced apart" with the term "non-contiguous" in the claims would eliminate such "non-overlapping" interpretation.

Applicant maintained, and the Examiner acknowledged, that neither of the primary references to Gagne et al. and Abtahi et al. teaches the use of non-contiguous sets of image pixels from the array with each non-contiguous set being a plurality of consecutive and colinear image pixels and processed to produce the biometric data. Indeed, review of FIG. 10b of Gagne et al. reveals only the array of image pixels. There is no selection of non-contiguous sets of consecutive and colinear image pixels of the array that are processed to produce the biometric data, as claimed.

Similarly, in the Abtahi et al. patent at column 6, lines 40-44, it is merely taught that a pixel array is used. Again, there is no selection of non-contiguous sets of consecutive and colinear image pixels of the array that are processed to produce the biometric data, as claimed.

There is simply no teaching or suggestion in the cited references to provide the combination of features as

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claimed. Accordingly, for at least the reasons given above, Applicant maintains that the cited references do not disclose or fairly suggest the invention as set forth in Claims 1, 10, 15, 21 and 29. Furthermore, no proper modification of the teachings of these references could result in the invention as claimed. Thus, the rejections under 35 U.S.C. §102 and §103 should be withdrawn.

It is submitted that the independent claims are patentable over the prior art. In view of the patentability of the independent claims, it is submitted that their dependent claims, which recite yet further distinguishing features are also patentable over the cited references for at least the reasons set forth above. Accordingly, these dependent claims require no further discussion herein.

II. Conclusion

In view of the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance. An early notice thereof is earnestly solicited. If, after reviewing this Response, there are any remaining informalities which need to be resolved before the application can be passed to issue, the Examiner is invited and respectfully requested to contact the undersigned by telephone to resolve such informalities.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY that the foregoing correspondence has been forwarded via facsimile number 571-273-8300 to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 this 4th day of August, 2006.



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